S.B. CIVIL WRIT PETITION NO.874/1996

21.9.2006

HON'BLE MR.MJUSTICE DALIP SINGH

ShrinH.S. Khandelwal for the petitioner.
Shri B.K. Sharma, Deputy Government Advocate.

Heard learned counsel for the petitioner. By the impugned order Annexure-11 the petitioner was found guilty in the inquiry the order of punishment has been passed the following manner :-

> "अतः राज्य सरकार राजस्थान पंचायती राज अधिनियम 1994 का धारा 38(1(ख) के अंतर्गत प्रदत्त शक्तियो का प्रयोग करते हुए श्री प्रहलाद सिंह पूर्व सरपंच ग्राम पंचायत भोडकी पंचायत समिति उदयपुरवाडी जिला झुंझुनू के विरूद्ध एतद्वारा परिनिर्णय लेखबद्ध किये जाने के आदेश प्रदान करती है ।"

It is the aforesaid order which has been challenged by the petitioner. The submission of the learned counsel for the petitioner is that the petitioner had not participated in the Gram Sabha which was held on 19.8.1988 where the petitioner's son was included in the list of selected persons for awarding the benefit under the IRDP Scheme which is the allegation against the petitioner, that while being the Sarpanch he had facilitated in providing the benefit to the member of his own family (son).

It is not dispute that the petitioner's son Surendra Kumar was in fact given the benefit of the scheme, treating him as a member of a B.P.L. Family, in the meeting of the Gram Sabha held on 19.8.1988. The Enquiry Officer has found that the absence of the petitioner was deliberate and he manupulated the proceedings of the Gram Sabha. It has also been found that son of the petitioner was not entitled to the benefit as he was not a person who could be said to be a member of the B.P.L. Family. The learned counsel for the petitioner has submitted on the basis of the Annexure-6 the certificate issued by the Tehsildar to the effect that the petitioner Prahlad Singh is a marginal farmer. Be that as it may the petitioner has not been able to show that the person who is marginal farmer should be treated as a person living below poverty line. As such the said certificate is of no consequence. The matter may be looked into as per the case of the petitioner in the writ petition where in the petitioner has filed Annexure-4 to show that his son has a

separate ration card and is not a member of his family. In that view of the matter the alleged certificate Annexure-6 showing that the petitioner is a marginal favour does not establish that his son Surendra Kumar was a person who could be said to be a member of a B.P.L. Family entitled to the benefit of the scheme.

The petitioner was the Sarpanch, an enquiry was held, he submitted his reply the same was considered and findings recorded against him in the enquiry, thus he was afforded a reasonable opportunity of showing cause and the principles of natural justice have been complied with.

The enquiry has found that it was the duty of the Sarpanch to have signed the list and verified the contents. As such he has been found guilty.

In the facts and circumstances therefrom I find no good ground to interfere with the impugned order. This writ petition is therefore dismissed. The stay application also strands dismissed.

(DALIP SINGH),J.

Ramchandrkhatri,.PS